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Fisheries for the Future

Restructuring the Government - Industry Partnership

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National Ocean Goals and Objectives for the 1980's

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Edited by Victoria J. Jones

Fisheries for the Future

Restructuring the Government - Industry Partnership

National Ocean Goals and Objectives for the 1980's

National
Advisory
Committee on
Oceans and
Atmosphere

July 1982
Washington, D.C.

NATIONAL ADVISORY COMMITTEE
ON
OCEANS AND ATMOSPHERE
3300 Whitehaven Street, N.W.
Washington, DC 20235

July 20, 1982

The President
The White House
Wasnington, DC 20500

Dear Mr. President:

I have the honor of submitting to you the report of the National Advisory Committee on Oceans and Atmosphere (NACOA), " Fisheries for the Future."

Ocean fisheries hold a special place in the economy and tradition of our Nation. These renewable resources, which yield food, furnish income, and provide recreation, are extremely fragile and difficult to manage. The issues and problems that impact this national resource are complex, resisting easy answers; yet, we believe some of the problems facing fishery managers and the fishing industries can be alleviated.

In this second report on national ocean goals and objectives for the next decade, NACOA has identified mechanisms for removing several of the impediments to enhanced fishery resources. NACOA's approach has been a careful restructuring of current roles and responsibilities so that the unrealized potential of our marine and coastal fisheries can benefit our Nation.

Respectively yours,

John A. Knauss
Chairman

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PREFACE

Despite an impressive burst of ocean legislation in recent years, the National Advisory Committee on Oceans and Atmosphere (NACOA) finds U.S. policy on fisheries, the Nation's oldest industry, to have been inadequate. Some observers and analysts see confusion and cross-purposes littering the trail of what has evolved as this Nation's fishery policy, but the reality may best be expressed as unrealized potential, if domestic fishery productivity is compared to that of competing nations, or measured against increasing user demands and the world's food needs.

Our interest in the development of this report is not to dwell on past failures or present faults; rather, it is to look to the future. We hope our recommendations lead to better use of the unrealized potential of our Nation's greatest wild living resources -- its marine and coastal fisheries.

We have worked in the knowledge that fishery questions are complex, resisting easy answers. And NACOA is fully aware that not all of the recommendations put forward in this report enjoy the unanimous support of the widely diverse sectors of the fishery community. We are dealing with often conflicting interests among fishermen and processors, marketers and consumers, commercial and recreational fishermen, government and private sectors, various regional interests, and competing types of fisheries. Yet, taken in the long view intended, we believe that our recommendations offer gains for the individual interests that make up the fishery community and the Nation as a whole.

In no way do we seek nor advocate a plan for centralized control over fisheries, nor do we subscribe to the notion that a uniform, comprehensive program for all U.S. fisheries is either desirable or feasible. Rather, NACOA encourages the pluralism and competition within and among the industries and interests. We are convinced that long-term gains for all will accrue from cooperative action to implement the package of U.S. fishery objectives developed in this report.

The fishing industry is like no other in its dependence on a resource of limited but variable size, and in its structure, divided as it is into commercial and recreational sectors. These characteristics contribute to an unusual set of perplexing social, economic, and biological issues. It is not surprising that the interaction of government with the wide spectrum of desires and needs of those seeking profits or other benefits from fishery resources has been uneven and often controversial. Thus, this report focuses heavily on defining a constructive role for government action in fisheries, recognizing that the government is only one of a widely diverse group of participants in fishery activities.

NACOA's recommendations are rooted among the following findings and basic principles:

1. The most urgent of our Nation's interests in fishery resources should be that they are economic assets of great value, capable of increasing food supplies, both domestic and worldwide. This has never had adequate recognition in U.S. policy or practice. The

high economic value of this resource makes the well-being of domestic commercial and recreational fisheries a matter of national importance, as well as one of regional and local significance. Because marine fishery resources are renewable forms of national wealth, they are substantial contributors to our national economy and food supply, and enhance the health, recreation, and well-being of our citizens. With proper management, these marine resources can be maintained indefinitely or even increased. If unwisely exploited, they are capable of perilous decline or destruction.

2. The well-being of the fishing industry depends upon the availability of productive and accessible stocks of fish to the fisherman, whether commercial or recreational. The maintenance of healthy conditions for the propagation and survival of fishery stocks ranks high among the many compelling reasons for protection of coastal and marine habitat. Thus, an indispensible component of governmental fishery management regimes, both Federal and State, is the vigorous protection of marine and estuarine habitats to assure the productive renewability of the Nation's fishery resources.

3. An appropriate role for Federal agencies, while maintaining effective communication with the private sector, universities, and regional, State and local officials, is to identify and to carry out those essential fishery activities that the industry segments cannot do for themselves. Examples of these activities include research to produce basic data likely to enhance the fisheries and their usefulness, and monitoring of the fish stocks and ecosystems to identify and warn of needed action against potentially harmful changes.

4. A continuing problem faced by managers is to maintain or increase the productivity of the fisheries, while remaining responsive to often competing wishes and needs of people for preservation and developmental uses of the estuarine and marine environment. At times, we have drifted toward extremes of excessive exploitation or restrictive regulation, sometimes simultaneously because

of competing interests. For some stocks, regulation is essential to avoid stock damage and economic loss, but for others the cost of management compared to the value received renders management unnecessary.

In light of the great unrealized potential of the Nation's fisheries industries, NACOA has included fisheries as a topic of focus in its broad program of examining and developing recommendations on national ocean goals and objectives. In this report, NACOA's recommendations are geared to enhance the contribution of this major resource to our Nation in the coming decade.

The membership of the NACOA Fisheries Panel was Jay Lanzillo, Chairman, Sharron Stewart, Sylvia Earle, George Tapper, and FitzGerald Bemiss. The Panel is indebted to many people who have participated and contributed valuable insights to this report and its recommendations. A list of those who participated in the Panel's work is given in Appendix B. The panel particularly expresses its appreciation to Harold Lokken, Charles Mosher, Jake Dykstra, Hal Lyman, James Wilson, Robert Jones, and Steven Frishman.

Additionally, we acknowledge the staff assistance of Joe Clem and Peter Fricke to the Panel in producing the final report, and we especially acknowledge the dedicated work of Clarence P. Idyll who was staff director for the NACOA Fisheries Panel and led the production of this final report.

Uneven treatment has long characterized the government's interactions with the widely diverse sectors of the U.S. commercial and recreational fishing industries. Even with the impressive flow of legislation in the 1970s on ocean and fisheries management, conflicting interests and disagreement over government and industry roles often dominate what has emerged as national fishery policy.

This NACOA report, "Fisheries for the Future," is developed in three chapters, each taking a long-term look at a critical aspect of the Nation's ability to realize more fully the potential value of fisheries under U.S. jurisdiction. First, and of greatest significance, is the management and conservation of the fish stocks and the ecosystems in which they propagate and survive as juveniles and adults.

NACOA believes it is in the national interest for the Federal Government to assume the responsibility of assuring the long-term availability of high quality fishery habitat to provide a healthy medium in which to manage important stocks of fish. Carefully collected and interpreted data are a requisite base for effective habitat conservation and fishery management.

The first goal, with objectives and recommendations, is presented as a framework in which government can guide the long-term health of the Nation's living marine resources.

Fishery Management and Conservation

National Goal 1

To provide for more effective fishery management and conservation through improved understanding and appropriate protection of marine ecosystems, and increased understanding of the economic and social factors involved in comprehensive fishery management.

Objective 1.1 -- *To improve the national fishery data system available for developing Fishery Management Plans and for other conservation purposes.*

Recommendation 1.1.1 -- *The Regional Fishery Management Councils should specify the objectives of particular Fishery Management Plans, and the kinds of biological, social, environmental, and economic data and research they seek for development and implementation of these plans.*

Recommendation 1.1.2 -- *The National Marine Fisheries Service should put more emphasis on research and data-gathering to support the preparation of Fishery Management Plans and to improve the Nation's ability to protect the fishery environment.*

Recommendation 1.1.3 -- *The Federal Government should continue the grant-in-aid programs under the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act, with grants being made for projects of national interest.*

Recommendation 1.1.4 -- *The coastal States should require licenses for saltwater commercial and recreational fishermen.*

Objective 1.2 -- *To improve the system for protecting and enhancing the aquatic habitat essential to propagation and maintenance of fishery stocks.*

Recommendation 1.2.1 -- *The National Marine Fisheries Service should expand its research related to fishery habitat protection.*

Objective 1.3 -- *To resolve the conflicts between the conservation and protection of marine mammals and the commercial fisheries.*

Recommendation 1.3.1 -- *The Marine Mammal Commission, the National Marine Fisheries Service, the Fish and Wildlife Service, and other interested organizations should review the problems confronting fishery management relative to marine mammals. A higher level of research and communication of existing data should be undertaken to clarify the marine mammal/fisheries problems and to provide sufficient understanding to resolve the conflicts.*

The second chapter deals with fishery management administration, the day-to-day interactions of the Federal Government among its own agencies and with Regional Fishery Management Councils, States, industry sectors, and other interest groups. These types of interactions are the most visible level at which the

government and other interested parties judge the successes and failures of their partnership. The following goal, objectives, and recommendations were developed from many statements and discussions with a broad range of fishery experts.

The substance of the recommendations in this chapter have been widely discussed in the past by individuals with an interest in fisheries, and some of these recommendations are already being implemented. However, the recommendations are all included here to emphasize NACOA's concern, and to stimulate a more comprehensive effort to strengthen the overall gains to the Nation available through improved administration of national fishery policy.

Fishery Management Administration

National Goal 2

To refine the administrative and legal mechanisms and roles involved in rational management of the U.S. fisheries.

Objective 2.1 -- *To clarify the roles and authorities of the various groups involved in the preparation of Fishery Management Plans and in other management activities.*

Recommendation 2.1.1 -- *Congress should confirm by amendment of the Magnuson Fishery Conservation and Management Act that the Regional Fishery Management Councils are the principal authorities in formulating management strategies.*

Recommendation 2.1.2 -- *The National Marine Fisheries Service should assign to its Regional Directors more authority for review of Fishery Management Plans and for other management decisions.*

Recommendation 2.1.3 -- *The Secretary of Commerce and the National Marine Fisheries Service headquarters should retain their roles of ensuring that regional decisions conform to statutory national standards and other laws and treaties.*

Objective 2.2 -- *To improve the ability of the Nation to manage fish stocks throughout their range by improving the machinery for cooperation among the States, the Regional Fishery Management Councils, and Indian tribes.*

Recommendation 2.2.1 -- *Congress should direct the Regional Fishery Management Councils to lead an intensive effort to devise more effective arrangements for developing State and interstate fishery management, including Indian tribe activities where appropriate, for important inshore fisheries. Congress should provide funds to the Regional Fishery Management Councils for this specific purpose.*

Objective 2.3 -- *To reduce the number and complexity of regulations impacting the fishery industries, and to simplify and shorten the process of developing and reviewing Fishery Management Plans.*

Recommendation 2.3.1 -- *Congress should amend the Magnuson Fishery Conservation and Management Act to remove the requirement that Regional Fishery Management Councils prepare Fishery Management Plans for every fishery in their regions.*

Recommendation 2.3.2 -- *Congress should amend the Magnuson Fishery Conservation and Management Act to require that Fishery Management Plans become effective on an interim basis should the Secretary of Commerce fail to complete the review and approval process within the statutory 60-day period.*

Recommendation 2.3.3 -- *The Department of Commerce should review its criteria for determining which Fishery Management Plans and amendments to these plans are major Federal actions under the provisions of the National Environmental Policy Act.*

Recommendation 2.3.4 -- *The Department of Commerce should change its policy in respect to which Fishery Management Plans require regulatory impact analyses under Executive Order 12291, and should take more advantage of the exceptions this Executive Order allows.*

Chapter 3 recommends means by which government and industry can work to improve the economic return to the industry and the Nation from its fishery industries. The burden is primarily on industry to operate successfully in the domestic and world marketplace. Some government programs have been judged ineffective, wasteful, or even counterproductive to the aim of increasing the profitability of the industry as a whole. For example, improving the stature of fisheries in international negotiations is critical to making the U.S. fishery industry competitive in domestic and foreign markets, and ultimately reducing the $2 billion per year trade deficit assignable to U.S. fish products. Modern marketing and distribution systems are generally lacking in the U.S. fishery industry. Modernization of the system would generate increased markets and profits well justifying an initial "seed" assistance from the Federal Government. NACOA also recommends a wait-and-see posture regarding the international joint ventures being experimented with by some members of the fishing community. Most of the recommended actions in this chapter require little or no direct financial assistance to the industry.

Economic and Competitive Position of the U.S. Fishing Industry

National Goal 3

To improve the economic climate and competitive position of the U.S. fishing industry.

Objective 3.1 -- *To increase domestic use of fish stocks harvested within the U.S. Fishery Conservation Zone.*

Recommendation 3.1.1 -- *The National Marine Fisheries Service and the International Trade Administration should develop a program to provide information to Congress and the Regional Fishery Management Councils on the extent to which fish imports adversely impact the U.S. fishing industries, and to examine ways of mitigating those impacts.*

Recommendation 3.1.2 -- *The National Marine Fisheries Service should continue its policy of permitting certain kinds of joint ventures between U.S. fishermen and foreign processing ships pending experience with this system that will allow a better evaluation than is possible now.*

Objective 3.2 -- *To improve the competitive position of the U.S. industry in international fishery product trade.*

Recommendation 3.2.1 -- *The Office of the U.S. Trade Representative and the Department of State should place a high priority on fishery products in trade negotiations with foreign governments. They should continue to press for inclusion of fishery products sales in agreements made with foreign countries, including linkage of foreign allocations of fish in the U.S. Fishery Conservation Zone with increased access to export markets.*

Objective 3.3 -- *To modernize and make more efficient and effective the domestic trading and distribution of fish and fishery products.*

Recommendation 3.3.1 -- *The National Marine Fisheries Service, with the help of regional Fishery Development Foundations, the universities, and other appropriate organizations should analyze the working of the U.S. seafood distribution and marketing systems, and should assist the industry to improve these systems where needed.*

Objective 3.4 -- *To define and implement appropriate roles for government and industry in the promotion of markets and the general development of the fishing industries.*

Recommendation 3.4.1 -- *Federal Government activity in product promotion should be phased out.*

Recommendation 3.4.2 -- *The National Marine Fisheries Service should create a program of mandatory standards for fishery products.*

Recommendation 3.4.3 -- *The National Marine Fisheries Service should review the programs of direct financial assistance to the seafood industry to determine if they can be used more effectively, and to eliminate those for which need for Federal Government intervention cannot be demonstrated, or for which adverse impacts on the economics of the industry can be identified.*

The complexity of concerns and interests that have driven the piece-by-piece enactment of what constitutes our national fisheries policy has been the subject of thousands of written pages and hours of discussion by industry and government professionals. Plans, sometimes innovative and sometimes not, litter the shelves of everyone interested in fishery policy, with most of the plans having a deplorable record of implementation. This NACOA report does not attempt to discuss or to make recommendations on every issue facing the U.S. fisheries. The report tries to identify mechanisms for removing the principal impediments to the Nation's fishing industries in approaching its potentials. It is obvious to NACOA that the U.S. fishing industry wants to be able to operate in a fair and unhampered marketplace. There are no easy solutions to the range of problems that exist in U.S. fisheries today; a careful approach to restructuring of current roles and responsibilities is the path chosen by NACOA for this report.

THE STATE OF THE U.S. FISHERIES

The place of fisheries in the U.S. economy

The fisheries of the United States occupy a special place in the economy and tradition of the Nation. There is high public interest in these activities, rooted in the long history of our fisheries which dates back centuries before the Nation was established, to the time when Europeans made fishing America's first industry. In addition, there is a deep-seated national ethic to maintain the integrity of natural resources, of which fisheries is one of the most important. This system of values would undoubtedly still prevail even if fisheries did not provide food, income, employment, and recreation. But, in fact, their economic and recreational values are substantial.

Ocean fisheries have uncommon characteristics and require special attention. First, fishery resources are renewable, with the capacity of yielding food and income indefinitely, but with fragility that makes them susceptibile to damage or destruction by man. Second, they are difficult to manage, having upper limits of catch and abundance that vary in unpredictable ways. Third, marine fishery resources are considered common property, freely available to all comers, with all the dangers of lack of stewardship inherent in that condition. And U.S. fisheries involve foreign activities, in the form of vessels fishing off our coasts, fish stocks shared by neighboring nations, and complicated trade relationships.

Yet, despite their special value and character, these resources have been given uneven and sometimes inadequate support by State and Federal governments. In 1976, a major step was taken to create a national system of conservation, management, and development. The enactment in that year of the Fishery Conservation and Management Act has provided opportunities for needed action. NACOA believes that an opportunity exists to make better use of a resource that can be a perpetual source of food and recreation to the United States.

Nature of the fisheries

The living resources on which the U.S. fisheries are based comprise the largest, most varied, and most valuable in the world. They may include as much as one-fifth of all the traditionally marketed fish of the oceans.

The U.S. fisheries consist of two major segments, commercial and recreational, both involving substantial numbers of people, producing significant income, and supporting many jobs. In 1981, the commercial fisheries produced 6.0 billion pounds of fish valued at $2.4 billion. This catch makes the United States the fourth largest fish-producing nation (freshwater and marine), after Japan, the Soviet Union, and China. In 1980, the commercial fishery employed nearly 200,000 fishermen, and over 100,000 people were engaged in processing and related industries.

The U.S. commercial industry harvesting, processing, and distributing fish consists mostly of a large number of small firms, few of them engaged in more than one aspect of the production/distribution chain. There is no single "U.S. fishing industry," but rather a collection of fishermen, distributors, and processors, many of which have opposing interests. Solutions to the problems of one group sometimes conflict with needs of other groups. Some firms are owned fully or in part by foreign governments.

The marine recreational fisheries involved 16.4 million anglers in 1975. The National Marine Fisheries Service (NMFS) estimates that these fishermen caught 700 million pounds, and that they contributed about $5 billion directly U.S. economy in 1980. For some species, the recreational catch greatly exceeds the commercial catch. The recreational industry supplies many jobs to people providing gear, boats, and services. (It should be emphasized that value and employment figures are estimated differently for the recreational fisheries than for the commercial fisheries, with considerably greater value added for secondary activities in the sport fish calculations. The two sets of values should not be compared directly.)

Changes in the fisheries

One reason for the increased interest in fisheries is the series of changes that have taken place, altering the character of the industry and the kind and degree of the problems faced. The most significant change has been the increase in fishing effort during the past several decades, which has brought most of the valuable stocks to or beyond the level at which fishing can continue without danger of depletion. Both American and foreign fishermen have been responsible. After World War II, the increased activity in waters off the United States by foreign fishermen, especially those of Japan and the Soviet Union, made great inroads into some major fish stocks, and raised alarm in this country. The response was a number of pieces of legislation, the most far reaching in effect being the Fishery Conservation and Management Act, passed in 1976. (In 1980, Congress formally changed the name to the Magnuson Fishery Conservation and Management Act to honor Warren Magnuson, long-time Senator from the State of Washington and principal architect of the Act.)

The Magnuson Fishery Conservation and Management Act (MFCMA) addressed both the need for management to check the effects of overfishing and the problems associated with uncontrolled foreign fishing. It extended U.S. control over fish stocks out to 200 nautical miles from shore, embracing an area of 2 million square miles, and between 15 and 20 percent of the traditionally harvested fish resources of the world's oceans. For the first time in U.S. history, substantial authority for management of fisheries in the U.S. Fishery Conservation Zone (FCZ), between 3 miles and 200 miles offshore, was placed in the hands of the Federal Government, which previously had such authority only in a few cases where international management was involved. Authority for management out to 3 miles still rests with the States. Under the 1976 Act, the responsibility for preparing management plans was given to eight Regional Fishery Management Councils. The recommended management plans must specify the amounts of fish permitted to be caught and take into account the various user interests. The Federal role is one of review and approval to ensure that the plans comply with the principles set forth in the Act, and to devise and

put into effect the implementing regulations for approved plans. The Federal Government also was given the task of ensuring that appropriate information is made available to the Regional Councils for the preparation of management plans.

Control of foreign fishing was accomplished in the Magnuson Act by requiring that any country desiring to fish in the FCZ must sign an agreement with this country called a Governing International Fishery Agreement (GIFA). Under the Magnuson Act, the United States effectively assumes control over who fishes where in the FCZ, what and how much they catch, and how they conduct fishing operations. Fees are charged to the foreigners: over $27 million in 1980. Of great importance is the fact that foreign fleets are permitted to fish only for species that U.S. fishermen are unable to harvest or sell economically.

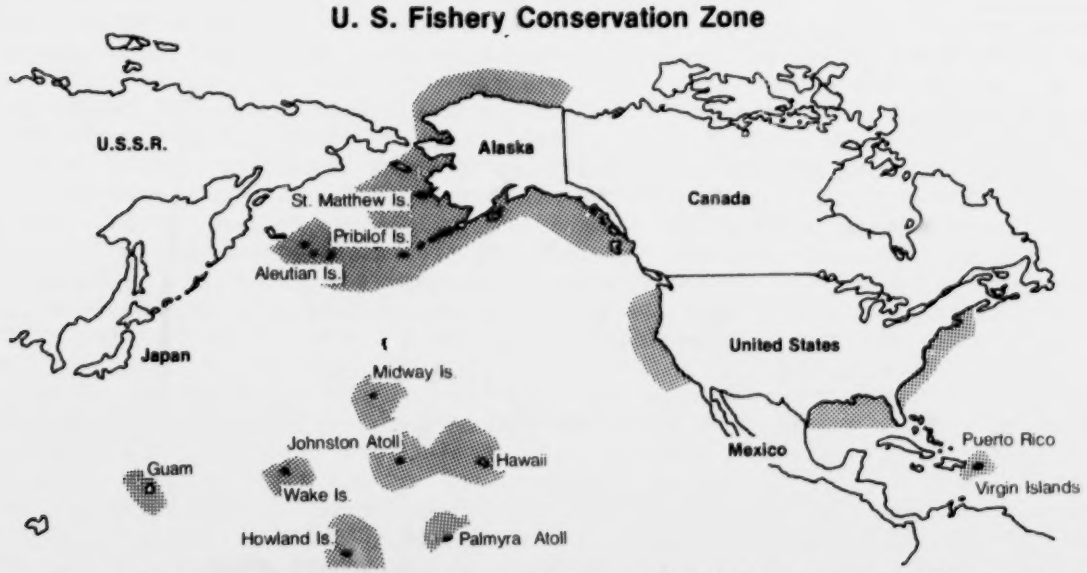


Figure 1.-- U.S. Fishery Conservation Zone -- Single Largest Pool of Living Resources Possessed by any Country in the World.

(Source: National Oceanic and Atmospheric Administration. 1977. Fisheries of the United States, 1976. Current Fishery Statistics, No. 7200. U.S. Department of Commerce, cover page.)

The MFCMA has been successful in checking overexploitation of many fish stocks that were being damaged (including several in New England waters), and more importantly, has established a national pattern of conservation of fish that was previously lacking.

By early 1982, 26 major fisheries had been placed under management. Nine additional plans were under review, and others were being prepared. The plans are designed to establish levels of fishing that protect the resources and yield fish and income to the Nation on a continuing basis.

The Act reduced the amount of foreign fishing by 34 percent from 1976 to 1980. The rate of this reduction is not as fast as expected by some people, mainly

because U.S. fishermen have not begun to fish on many of the species that became available to them when foreign competition was reduced. Fourteen nations operated under GIFAs in 1982 (Mexico, once the 15th, cancelled its GIFA in 1980 because of disagreement over tuna fishing and some other fishing issues). In 1980, 1,795 fishing permits were issued to foreign vessels, and they caught 1.631 million metric tons of fish (3.6 billion pounds) in the U.S. Fishery Conservation Zone. This amount was 22 percent less than the average for the previous five years. Another measure of the effect of the MFCMA is that U.S. vessels caught 28 percent more fish in 1980 than in 1976. Domestic vessels are catching a higher proportion of the fish consumed by this Nation than before 1976 -- 51.1 percent in 1980 compared to 46.5 percent in 1975.

The Magnuson Act thus caused a reduction in the numbers of foreign vessels fishing in U.S. waters. The promise of the Act that competition from foreign fishing would be substantially reduced, and that fish stocks would increase, encouraged American investors to build more vessels in some fisheries. In some cases, this aggravated what had already been overcrowded fisheries, and the situation is causing economic hardship in many parts of the industry.

An additional market for catches of U.S. vessels has been provided by what is called a "joint venture." In this context, a joint venture is the partnership of American fishing vessels with foreign processing vessels operating in U.S. waters. These joint venture arrangements are the focus of sharp controversy. The fishermen argue that without the foreign participation, no markets would be available for their catches, because U.S. processors either do not have the capacity or the markets for several species involved. Some U.S. processors, on the other hand, claim that the joint ventures effectively prevent American firms from establishing processing/distribution networks for unfamiliar kinds of fish.

Domestic catches in the FCZ have increased, foreign catches have decreased, and some fish stocks have increased in size since the enactment of the MFCMA. Despite these facts, its implementation is not without problems, and it would be unreasonable to expect otherwise, in view of the profound changes the Act imposed on U.S. fishery management and development, and the complexity of the Act, the number and disparity of interests of the groups affected by it, and the inexperience of the country with the new concepts and mechanisms involved.

Another threat to U.S. fisheries has been the damaging and progressive loss of fishery habitat. By far the majority of fish and invertebrate species of value to commercial and recreational fishermen depend at some stage of their lives on nearshore and estuarine aquatic environments. These environments have been degraded over the years by sewage and industrial pollution, dredge and fill activity, and industrialization and housing development along the shore. It has been estimated that annual losses of wetlands along the coasts of the United States are now at the level of over 100,000 acres per year, 10 times the rate prior to the mid-1950s.

In response to this environmental degradation, Congress passed several pieces of legislation of importance in the past decade, including the Clean Water Act of 1977, the National Environmental Policy Act (NEPA) of 1969, the Coastal Zone Management Act of 1972, and the Marine Protection, Research and Sanctuaries

Act (the "Ocean Dumping Act") of 1972. Implementation of these laws has slowed the rate of degradation of the aquatic habitat and has, in some cases, helped to restore it. For example the permitting requirements of Section 404 of the Clean Water Act have resulted in a more orderly method of dumping dredged material; the Ocean Dumping Act has required more orderly disposal of waste into areas of the ocean where less impact is likely on living resources; NEPA has required more careful scrutiny of proposals of developers, and has often resulted in less environmentally harmful courses of action.

Many fishing and fish processing companies have experienced severe economic difficulties in recent years. One reason is the sharp extra costs imposed on some fishing operations by increased fuel prices, which affect parts of this industry more than most, because fuel can represent a high proportion of costs. Fuel costs have caused both sport and commercial fishermen to operate closer to home, putting fishing pressure still more heavily onto some populations.

Until 1978, when the stimulus of the MFCMA began to push landings slowly higher, U.S. commercial harvest of fish had been static for about 25 years. And even now landings have gone up more slowly than many had predicted, given the advantages conveyed by the Magnuson Act. It seems clear that for some of these fisheries the difficulties stem in part from competition imposed by foreign fishery products. Some of these products, especially fish blocks, are sold in this country at prices so low that domestic producers cannot compete, and, in some cases, this is possible because of direct or indirect subsidies granted by the governments to foreign fishermen and distributors. Despite having the largest fishery resource of any nation in the world, we have been buying much more than half of our fish from other countries in terms of value.

At the same time, it should be pointed out that a substantial proportion of the value of imports refer to such species as shrimp, tuna, and lobsters, resources that are being harvested fully in U.S. waters. Their imports do not restrict production.

In December 1980, a significant piece of legislation, the American Fishery Promotion Act (AFPA), Public Law 96-561, was enacted. It amended the Magnuson Act by providing for Federal cooperation with the industry in research, marketing, and product development projects. The AFPA gave Congressional support to the policy of tying imports of U.S. fish by foreign countries to the allocations given to those countries under the provisions of the Magnuson Act. The AFPA required closer control over foreign fishing in the FCZ, including provision for phaseout of such fishing according to a specific formula. The Act also called for an increase in the amount of fees charged to foreign vessels fishing in the FCZ.

Last, the rapid rise in recreational fishing must be noted. The economic impact of this growth has been enormous. The added fishing pressure on some stocks -- notably Pacific salmon -- has affected the commercial catch. The MFCMA requires that recreational fisheries be considered in developing Fishery Management Plans, but many believe that this mandate has not been taken seriously enough by the Regional Fishery Management Councils.

Bills and amendments to bills continue to be introduced into Congress that would affect many aspects of fishery management, support for the industry, trade matters, and others. The concepts of fishery management and of appropriate government support for the industry are in a state of change. The concepts of what constitutes "optimum use" and "the best interests of the Nation" in respect to fisheries are under transition.

The NACOA report

The need for a rational and integrated approach to the marine and coastal fisheries of the Nation was the focus for this report as representatives were interviewed from many sectors of the fishing industry, both commercial and recreational, and from of Federal and State agencies that interact with the fishing industry, environmental interests, and Indian tribes. The question of what represents appropriate roles for government and industry was a central concern.

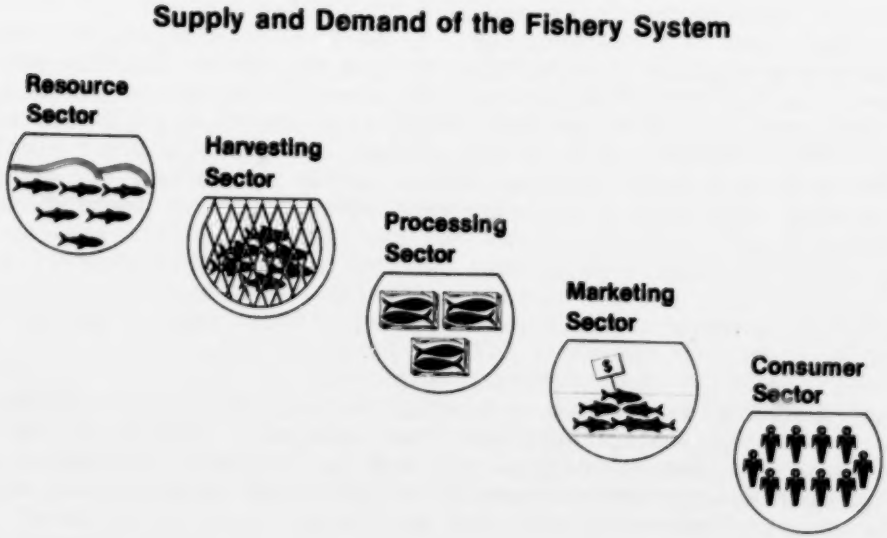


Figure 2.-- U.S. Fisheries -- From Resource to Consumer.
(Source: National Oceanic and Atmospheric Administration/National Marine Fisheries Service)

As a focus for the actions proposed in this report, NACOA suggests that the desired state of the fisheries of the United States by the year 2000 may be summarized as follows:

- Depleted fishery stocks have been restored, and all stocks are being maintained at high levels of productivity.

- o Consumer needs are met by adequate supplies of good quality fish, available at competitive prices.

- o The United States is getting the maximum value from its fishery resources in terms of food, recreation, and income, through fishing by U.S. citizens when feasible or through fishing by foreigners at a fair cost to them.

- o The benefits from the fishery resources are allocated fairly among consumers and the various groups of commercial and sport fishermen.

- o Fair competition exists in the domestic marketplace between fish and other food products, and between domestic and foreign fishery products.

- o No unnecessary costs of effort or money are imposed by government regulations.

- o The aquatic habitat and all the living components of the environment are protected to permit the maximum wise use of the resources.

This report is organized into three chapters, dealing with the three aspects of the existing fishery management regime established by the MFCMA and other legislation. Many of the objectives and recommendations contained in this report will be familiar to those with a continuing interest in the Nation's fisheries. Viewed collectively, these recommendations are intended to guide a redirection of government and industry thinking concerning management of the fisheries and development of the industry. Some of our recommendations are already in the process of being implemented by NMFS and other groups, and are put forward in this report to emphasize our agreement with them and to accelerate useful action.

Chapter 1 addresses the broad range of information seen as necessary for effective management of the fisheries, suggests a redirection of Federal Government activities towards this end, and further emphasizes the necessity for high quality biological, environmental, social, and economic data in management and regulatory decisions made by government.

The four recommendations aimed at improving the national fishery data system involve, first, a need for the Regional Fishery Management Councils to define clearly information-gathering objectives with respect to the development of a particular management plan in order to achieve effective management without over-regulation or invasion of private sector values. Further, we recommend that a priority role of NMFS in this management scheme be one of data collection, and research and analysis in support of Fishery Management Plans and fishery habitat protection. The varied interests and emphases on the part of States in managing the coastal fisheries within their jurisdiction has led us to suggest that States not already having effective management and conservation programs for the Nation's living marine resources should establish them. In this section, we also note that important data from the recreational angling

sector are not being collected uniformly, or sometimes not at all, and suggest a mechanism by which this can be corrected in the interest of developing more effective and equitable management plans and objectives.

We also recognize fishery habitat protection as a primary objective. With a continually declining quantity and quality of fishery habitat, management becomes increasingly more difficult. Ultimately, the task becomes impossible, and stocks become threatened beyond the point at which rational management can permit any harvest. We suggest that NMFS take increased initiative in the establishment of fishery habitat protection goals. In time we hope that this program will decrease the need for case-by-case reaction to proposed developmental activities.

Finally, Chapter 1 examines the MFCMA and the Marine Mammal Protection Act and the problems confronting fishery management relative to marine mammals.

In Chapter 2, we develop objectives and recommendations on administrative improvement in furthering the goals of rational and beneficial fishery management. Suggestions are made in Chapter 2 on the respective roles of the Regional Fishery Management Councils, the Departments of Commerce and State, and the industrial sectors in meeting these objectives. We strongly reaffirm the Council as the primary authority in management planning, as mandated by the MFCMA. We encourage an adjustment of the Act that would permit managing only those stocks that need management. Suggestions are made on the role of NMFS in providing pertinent and timely review of Council objectives and plans, and the need for the Secretary of Commerce to continue to assure that the plans formulated by the Councils meet national standards established by statute. In addition, in Chapter 2, we examine the need to manage fisheries throughout their ranges. Suggestions are made regarding State and multi-State roles in management of stocks whose ranges cross boundaries between States and beyond the territorial sea into the FCZ. There needs to be improved interaction among affected States and between States and the Regional Fishery Management Councils.

Chapter 3 constitutes a series of suggestions about fishery development of concern to both the commercial and recreational fishing industries. International aspects of our Nation's fishing industries are examined in the light of foreign activities permitted under the MFCMA. We consider international agreements regarding foreign access to U.S. fisheries within the FCZ, impacts on the U.S. fishing industry, trade and tariff barriers, and impediments to industry development and marketing, both domestic and foreign. We also review important questions of increasing the domestic use of U.S. fisheries and decreasing the severity of the deficit assignable to fish products in the U.S. balance of trade.

In Chapter 3, we conclude that improvements are needed in the domestic fishery marketing and distribution sector. These activities need to take advantage of advances in methods and technology currently employed by other industries, the most notable being domestic agriculture. Although initial Federal Government assistance is viewed as desirable in this effort, we believe that full implementation is a responsibility of the private sector. And industry initiative is essential in advancing public confidence in the quality and nutritional value of seafood products, especially as these are dependent on skillful and safe handling, harvesting, processing, and distribution.

We also examine in Chapter 3 the Federal Government programs of direct financial assistance to the fishing industry, and suggest that these programs be carefully reviewed, individually and collectively, as to their value and utility in furthering the national fisheries interests. We do not recommend that programs be abandoned in a wholesale manner but do encourage a critical review of their effectiveness relative to specific sectors of the industry.

Not all issues regarding the commercial and recreational fisheries of the Nation are addressed here, but it is the intention of NACOA that this report be of use to the President and the Congress as a planning guide in the consideration of the Nation's fisheries during the coming two decades.

Two important areas of discussion regarding U.S. fisheries are not explored in this report. The first is the position held by some that this Nation should declare its ownership of the fishery stocks in the FCZ, and allocate access to the resource on a fee basis, under a philosophy similar to that employed in leasing rights to resource exploration and exploitation on Federal lands and on the outer continental shelf. Compelling and articulate arguments exist on both sides of this question. NACOA's position in developing this report is that the MFCMA works, and that with some additional clarification and response to changing conditions, will continue to provide an acceptable and beneficial framework within which to guide and operate the Nation's fisheries industries.

A second area of discussion not developed in this report deals with the Nation's policy regarding aquaculture. The National Aquaculture Act of 1980 states the national policy to be "to encourage the development of aquaculture in the United States," and it specifies Federal implementing activities; it also requires a National Aquaculture Plan which is presently being prepared by the Departments of Commerce, Agriculture, and the Interior. To date, funds authorized in this act have not been appropriated. We also note that recently, while the Department of Commerce was further reducing its priority of interest in this area, the Department of the Interior began increasing its activities in aquaculture. NACOA chose to set this emerging field of interest aside in its consideration of national fisheries questions, primarily in order to devote more focused attention to problems regarding the wild coastal and marine fishery resources of the Nation, without speculating on how future domestic production of "cultured" seafood may impact on the existing domestic industry. We applaud significant advances in aquaculture research and technology, and encourage their full application in developing this promising industry, but find little, to date, from the domestic aquaculture industry that has direct bearing on the major issues to which this report is directed.

The Committee realizes that economic and political conditions will be factors in implementation of many of our recommendations. Nevertheless, we feel a responsibility to call to the attention of the President and the Congress certain problems and opportunities, and to show that these must be addressed if full value is to be realized from the country's fishery resources. Moving the U.S. fisheries forward at a satisfactory pace will, in some instances, involve additional appropriations by Federal and State governments and expenditures by the industry, and this reality should be faced.

FISHERY MANAGEMENT AND CONSERVATION

National Goal 1

To provide for more effective fishery management and conservation through improved understanding and appropriate protection of marine ecosystems, and increased understanding of the economic and social factors involved in comprehensive fishery management.

The complexity of fishery management in the United States has increased markedly in recent years, and the concepts of fishery management are in flux. Large changes have resulted from the passage of the MFCMA in 1976, which put substantial pressure on fisheries managers, and revealed shortcomings in the existing national strategy. Among these are the shortage of certain types of biological and environmental information about fish stocks and of economic and social information about offshore and onshore operations. Another is the pressure on stocks resulting from various kinds of pollution and destruction of habitat. Furthermore, implementation of ecosystems management strategies in fisheries requires more comprehensive information.

The MFCMA established for the first time in the Nation's history the concept of national fishery management by regional entities created by Federal law. The basic concepts of the Act have been shown to be sound, but its implementation is proving to be cumbersome in some ways. Increased efficiencies can be obtained by both government and industry.

We have therefore addressed three objectives within this goal for management and resource protection, namely those dealing with:

- o Quality of information.
- o Protection of the aquatic habitat.
- o Fishery resource management and marine mammal protection.

Objective 1:1 -- *To improve the national fishery data system available for developing Fishery Management Plans and for other conservation purposes.*

Of special importance is information on the size of the stock involved and changes in this size under environmental and fishing pressures. This "stock assessment" is usually difficult, and errors can render management ineffective.

Implicit in the application of the "ecosystem management" concept is a reasonable understanding of the physical and chemical environment, the biological elements, and the interactions among the species complex and with their environment. Effective ecosystem management also requires an understanding of the flow of material, energy, and nutrients within the system. At present, the complex of interactions is not sufficiently understood in any marine system to allow for comprehensive ecosystem management.

Economic and social information is required concerning the fishermen and other groups involved in the fishery to measure the impact of the regulations and to ensure a fair distribution of the benefits among those who catch, sell, and consume the fish.

Recommendation 1:1:1 -- *The Regional Fishery Management Councils should specify the objectives of particular Fishery Management Plans, and the kinds of biological, social, and economic data and research they seek for development and implementation of these plans.*

Rationale:

Some Fishery Management Plans (FMPs) have suffered from lack of necessary data, and the need for expanded programs of data collection and research has been widely recognized. The enormous new tasks created by the MFCMA have put substantial additional pressures on the fishery information/collection system of the country, and have revealed serious gaps in our knowledge of fish populations. The MFCMA requirement to manage fish stocks on the basis of "optimum yield" (OY) has made the data needs more elaborate and broader in scope. OY is defined in the Act as that which provides the greatest benefit to the Nation as determined on the basis of all relevant economic, social, biological, and environmental factors, but in any event sets the level of harvest below that which will cause ecological damage. Thus, in addition to requiring much more reliable biological information than in the past, the optimum yield requirement adds two difficult dimensions. First, it requires substantial amounts of "social and economic" data, meaning information about the monetary impacts of proposed regulations and other management actions, and information about the possible effects on human activities, including employment, working conditions, worker movements, and other matters that were usually given lesser consideration in the past. Care is required in deciding what kinds of social and economic data should be collected, because some members of the industry contend that certain kinds of information sought are of a proprietary nature. Second, OY specifically requires fishery managers to consider the condition of the environment; this can only be done if sufficient data are available to evaluate its condition.

Biological information on fish stocks, which is the basis for making population estimates, has come in recent years mainly from the NMFS research programs, such as the Marine Resource Monitoring, Assessment, and Prediction Program,

and from State programs. State programs have been substantially supported by the Anadromous Fish Conservation Act of 1965 (P.L. 88-304) and the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309). These programs have been built arduously over many years. This momemtum should be maintained. Moreover, to meet the challenge presented by the increasing complication of modern fishery conservation, more accurate and cost-effective methods must be developed for collecting biological fishery data, especially for stock assessment. In contrast to the recognition for increased data needs, funding support for fishery data programs has been severely reduced. The fishery data collection system needs to be improved, and the cost that will be involved should be anticipated by planners and budgeted accordingly.

Regional needs differ, and the Regional Fishery Management Councils, as designers of fishery management strategies, are in the best position to set the objectives of data collection and research for their Fishery Management Plans, and to judge the nature of the management problems in their region. With the advice of their Scientific and Statistical Committees, the Councils need to make NMFS and the other suppliers of information aware as fully as possible of what problems are faced, and the objectives of data collection regarding these problems. Only then can the scientific community determine the kinds of data, the best design of the research, and the most useful form of the information to assist the Councils in decisionmaking. There should be consultation and agreement among Scientific and Statistical Committees, Council scientists, and NMFS scientists on the kinds of data that will respond to the Councils' identified needs and on how these data can most efficiently be supplied.

Recommendation 1:1:2 -- *The National Marine Fisheries Service should put more emphasis on research and data-gathering to support the preparation of Fishery Management Plans and to improve the Nation's ability to protect the fishery environment.*

Rationale:

NACOA believes that along with NMFS' management responsibilities set forth in the MFCMA, the major activity of NMFS should be to conduct research to support the preparation and implementation of FMPs and to improve the Nation's ability to protect the aquatic environment used by fish. This view is an extension of NACOA's opinion that protection of the living resources on which the fishing industry depends is an obvious first necessity, and that the Federal Government is the best (and for some stocks, the only) entity able to perform this function.

With the passage of the MFCMA, the prime responsibility of NMFS became to ensure the safety and perpetuation of the fishery resources and their wise use in the national welfare. By the Act, the responsibilities of NMFS were expanded markedly, and to these tasks have been added others imposed by the current environmental protection laws. NMFS thus finds itself as a major regulatory agency, in addition to its greatly increased responsibilities in research and development.

The activities and responsibilities of NMFS have been determined by mandates of Congress, the needs of the industries, and the perceptions of national needs by the agency leadership. But priorities change, and a restructuring of NMFS programs is necessary in response to the changes, especially in view of sharply reduced budgets. NACOA believes that NMFS program priorities should reflect not only that which is affordable but also that which has the greatest long-term significance to fishery management.

In addition to the need for more and better information on the biology and size variations of commercially valuable fish stocks, there are problems in the rapidly expanding recreational fisheries for which NMFS research should be increased. While it is true that many of the species of interest to sport fishermen also are harvested commmercially, the management problems often differ enough that research needs for sport fisheries are also different. Biological research on some species of special interest to anglers, such as the billfishes, is scanty. Information on the interdependence among species, habitat degradation, population estimates, and catch and effort data is needed for allocation purposes, as are economic and social data. States are ill-equipped, either technically or financially, to undertake such programs, which in many cases must be done on a coast-wide basis, and often in waters outside the 3-mile limit. Responsibility thus falls on the Federal Government.

Recommendation 1:1:3 -- *The Federal Government should continue the grant-in-aid programs under the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act, with grants being made for projects of national interest.*

Rationale

Even a substantially expanded NMFS research program would probably be unable to supply all needs for management of fisheries in a region. The work of scientists from the States is a critical factor.

One of the unresolved problems of the MFCMA is the division of authority between the Regional Fishery Management Councils, whose responsibility is to manage fisheries outside territorial waters, and the States, which retain authority within the 3-mile territorial sea. Many important stocks spend part of their lives in both areas, so that inadequacy or lack of information on the fish or the fisheries in the State-controlled zone can make an otherwise well-conceived Fishery Management Plan ineffective.

Some coastal States have long-established and effective fishery research programs, including investigations in marine waters. In others, the freshwater component of this research machinery is strong, but little or no research is conducted on the saltwater fisheries.

The biological, environmental, social, economic, and statistical information collected by the States should be processed with the NMFS data in a cooperative

effort to ensure that all information is available and useful to Federal and State fishery managers and to the Councils.

Establishment of fishery research programs by State governments is a costly matter. States that do not now have such programs have apparently decided that their priorities are elsewhere. With the current policy of the Federal Government to shift the cost of a great many programs to the States, enthusiasm of the States to fund new fishery responsibilities will probably not be high. Nor, in the opinion of NACOA, should States be expected to shoulder completely certain kinds of fishery conservation programs. Protection and development of natural resources, especially of those fisheries which are shared by more than one State or which are carried out inside and outside the 3-mile limit, and whose welfare is so obviously a national as well as a local and regional concern, should be a shared responsibility. States should contribute to the support of these programs, but NACOA believes the Federal Government also has a responsibility to share in the funding of these essential activities. The Committee therefore opposes cancellation of State grant-in-aid programs (the Commercial Fisheries Research and Development Act, and the Anadromous Fish Conservation Act), which have financed fishery research and development programs in recent years. Some of the benefits of these programs have been local, but much of the work has been in support of national interests. The effectiveness of regional/national fishery management by NMFS and the Councils in response to the MFCMA will continue to need this type of work.

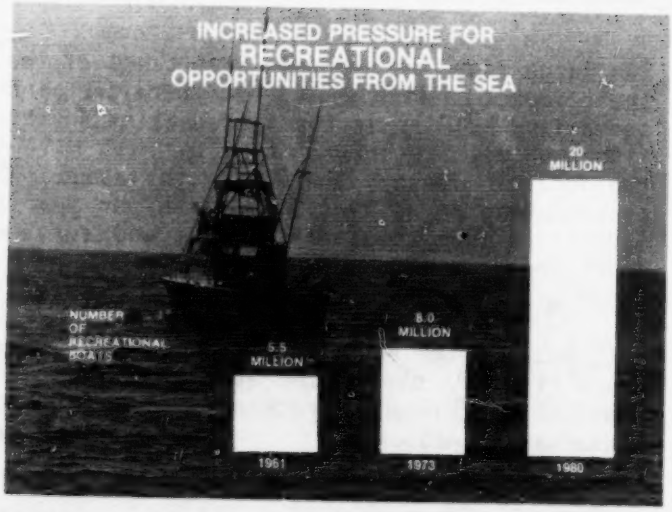
Recommendation 1:1:4 -- *The coastal States should require licenses for saltwater commercial and recreational fishermen.*

Rationale:

The large size and economic importance of the U.S. recreational fisheries, and their impact on fish stocks and therefore on fishery management strategies, were summarized briefly in the introduction to this report. Saltwater recreational fishermen may now number more than 15 million, and they are increasing at a rapid rate. These fishermen caught about 700 million pounds of fish in 1980, contributing as much as $5 billion per year to the economy through supporting industries supplying gear, boats, and services. Sport fisheries therefore do exert great pressure on the fish stock, with sport catches sometimes exceeding those of commercial fishermen.

Yet, despite the economic, recreational, and conservation significance of the sport fishery, too little attention has been paid to it by NMFS. This has resulted in inadequate research and development effort, habitat protection, and conservation measures.

In addition to the biological and environmental research results required by NMFS and others for rational use and management decisions, there are information needs that can be provided only by the States. Although a license system will not provide the necessary data directly, such a system is an essential early step in the creation of a research and development capability.



The economic, biological, and social importance of U.S. recreational fisheries cannot be underemphasized in determining our fishery management strategies.

Credit: National Oceanic and Atmospheric Administration/
National Marine Fisheries Service.

Among the information needed are reliable estimates of total catch (weight and numbers of fish) by species and area of fishing; estimates of the amount of fishing effort by gear type, species and area, expressed as the numbers of fishermen, catch per unit of effort or some other measure; direct and indirect expenditures in pursuit of the sport; how the fish is used, including how much is sold, how much is eaten, and how much discarded; and preferences of species sought.

Such information is needed to measure the impact of the recreational fishery on the overall fish stocks and is essential for proper development of Fishery Management Plans. A secondary, but also important, use of the information is to show the magnitude and economic significance of sport fishing, of considerable interest to the sport fish industry (tackle and boat manufacturers and merchants, and others supplying services to recreational fishermen) in making business decisions.

Properly implemented by the States, a marine recreational fishing license system will help to obtain reliable data on sport fishing; it will provide a first estimate of the number of anglers. In some States, records of the sport catch are poor, often making estimates of population size, optimum yield, catch/effort ratios, and other parameters essential for management of questionble value. All States already license freshwater fishing, and the extension of this process to saltwater angling offers a reasonable approach to obtaining information important to overall management objectives. State programs should be coordinated with each other so that the kinds of data collected will be compatible and can be used collectively for estimating stock size and for other purposes.

California and Texas require saltwater sport fishermen to purchase licenses; some other States have licenses for certain species, or for out-of-state anglers; most, however, do not have recreational fishing licenses. The revenue derived from saltwater fishing licenses should benefit sport fishing by being used in research and development to protect sportfish stocks and habitats.

Some coastal States require commercial fishermen to have licenses, but some do not. The values and uses of these are similar to those discussed above for recreational fishing licenses, and NACOA believes it would be desirable to have a universal system along the entire coast. Moreover, the perversion of "sport fishing" by some anglers who sell their catches is a practice which can endanger certain stocks through high and largely uncounted exploitation of fish. Some States already require that everyone who sells fish be classified as a commercial fishermen and pay a license fee. NACOA believes this should be a universal requirement for all States.

Many, if not most, of the leaders among sport fishermen are in favor of marine recreational licenses. The National Wildlife Federation and the Sport Fishing Institute, large and influential associations of conservationists, fishermen, tackle manufacturers, and others, have officially approved the concept, on the basis that the advantages to sport fishermen of licenses outweigh the disadvantages.

The importance of having full and trustworthy information on the sport fisheries for the preparation of effective FMPs is clear. The State recreational fishing licenses recommended will help provide this information, directly and through

the research that can be supported by license income. Furthermore, the effectiveness of a licensing system will be greatly increased if used by all States. NMFS should therefore encourage and assist the States in setting up licensing systems, and the agency should consider the possibility of requiring a Federal license for vessels fishing in the FCZ in States that fail to impose their own licenses.

Objective 1:2 -- *To improve the system for protecting and enhancing the aquatic habitat essential to propagation and maintenance of fishery stocks.*

Protection of the habitat, including coastal waters and the estuaries, is an important part of U.S. national policy; it has been made much more visible in recent years by the strong environmental movement. Yet, commercial and recreational fisheries are being damaged by degradation and loss of essential habitats, and a stronger, more focused system must be developed to afford better protection to this part of the aquatic environment.

The extent to which the condition of the estuarine and marine environment affects the abundance and well-being of fishery population is not widely realized. In the Gulf of Mexico, for example, about 90 percent of fish caught commercially and 70 percent of those caught by sport fishermen depend on estuaries for at least part of their existence. Many of the most popular and commercially most valuable species are "estuarine-dependent": shrimp, salmon, oysters, menhaden, crabs, flounders, and many others. The combined harvest in 1980 of these six species valued $1.4 billion, 67 percent of the dockside value of commercial fisheries of the Nation. Similarly, many important sport fish species depend on estuarine waters: salmon, steelhead trout, striped bass, red drum, and many others.

Coastal wetlands were being lost or destroyed at a rate estimated to be 10,300 acres per year from 1780 to 1954 and at a rate 10 times that from 1954 to 1978. Clearly an effective strategy must be adopted to halt this damaging trend.

Recommendation 1:2:1 -- *The National Marine Fisheries Service should expand its research related to fishery habitat protection.*

Rationale:

NMFS is already active in matters related to protection of the fishery habitat, but a disproportionate amount of its time is spent reviewing applications to other Federal agencies for building of structures, changes in the water environment, and the like. NMFS reviews and comments on Federal or federally authorized projects that propose alterations or developments in habitats occupied by living marine resources. Under the National Environmental Policy Act (NEPA), NMFS reviews environmental impact statements for major actions affecting the quality of the environment.

Hence, NMFS finds itself in a reactive, largely mechanical role that detracts from its ability to anticipate environmental threats to the fishery habitat and to assume an appropriate leadership role in this area.

NMFS should redirect its habitat protection program to include a comprehensive research and assessment effort from which information can be derived not only to meet the review and comment requirements, but more importantly to anticipate environmental damage and to develop techniques for avoiding and repairing such damage. The program should include investigations on the effect on the fishery habitat of the physical disturbances caused by dredge and fill operations and studies of the effects on fishery-related resources of sublethal concentrations of chemicals and pollution that cause a high rate of natural fish mortality.

NMFS has ample authority to pursue a different policy in this area. The authority (apart from the review of applications for alteration of the environment) stems chiefly from the MFCMA, which requires that habitat concerns shall be adequately considered in the development and implementation of FMPs. The Act specifically designates the fisnery habitat as a resource among those which NMFS is instructed to protect and manage. In addition, the Fish and Wildlife Coordination Act of 1934 (P.L. 121) contains broad authority for the protection and management of the habitats upon which the living marine resources depend.

Objective 1:3 -- *To resolve the conflicts between the conservation and protection of marine mammals and the commercial fisheries.*

Rationale:

All groups of animals in the ocean have complex interactions and interdependencies, with changes in size and other characteristics of any population having direct and sometimes significant effects on other populations. These interactions exist between some fish stocks of value to commercial and sport fishermen and some marine mammals.

In recent years, concern about the health of the ocean ecosystem, especially about marine mammals, among environmental groups and the general public has resulted in special protection of marine mammals. A manifestation of the public demand for action was the passage of the Marine Mammal Protection Act in 1972. This Act halted or reversed the alarming decimation of some marine mammals.

The Act, however, contains provisions that have caused conflict in some fisheries, and which some observers believe have made the achievement of full rational use of certain fishery resources difficult.

Recommendation 1:3:1 -- *The Marine Mammal Commission, the National Marine Fisheries Service, the Fish and Wildlife Service, and other interested organizations should review the problems confronting fishery management relative to marine mammals. A higher level of research and communication of existing data should be undertaken to clarify marine mammal/fisheries problems and to provide sufficient understanding to resolve the conflicts.*

Rationale:

The Marine Mammal Protection Act (MMPA) was passed in 1972 in response to growing concern about the rapid decimation of some marine mammal species and because of an awareness of values represented beyond direct commercial take. The Act affords overall protection for marine mammals except fur seals, but there is a provision for permitting limited "taking" for certain activities, such as research, public display, and incidentally to commercial fishing.

In its policy of full protection for marine mammal stocks, the MMPA departs sharply from policy that has traditionally guided fishery use and conservation. The latter, as now embodied in the MFCMA, encourages controlled use of living resources for food and other purposes.

A central policy of the MMPA is the concept of "optimum sustainable population" (OSP), defined as: "....the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element." Taken literally, this means that it is U.S. national policy to allow marine mammal populations to exist at the highest level that the environment will permit with no removals by man except for limited special purposes.

The Magnuson Fishery Conservation and Management Act, on the other hand, is based on the concept that fish and invertebrate populations of value to man should be harvested so that the maximum amount of catch is made on a perpetual basis. This concept is called "maximum sustainable yield" (MSY). MSY is now recognized as being inadequate as a management principle for many fisheries, partly because MSY does not take all the human factors into consideration. Thus, the MFCMA extended MSY to the "optimum yield" (OY) concept. OY, which has as its base the best available MSY estimates, also takes into account social, economic, and environmental values when establishing management policies and the size of the allowable catch. The MFCMA requires estimates of OY in the development of Fishery Management Plans. Thus, MSY/OY is a fundamentally different approach to marine resource use and conservation than the concept of OSP in the MMPA.

Some of the interactions between marine mammals and the fisheries that have raised arguments between those concerned with mammal protection and those con-

cerned with fisheries, as well as the consequences of the policy differences represented in the MMPA and the MCFMA, are illustrated in the following.

1. Pacific yellowfin tuna and dolphin

Most tuna taken by U.S. boats in the Pacific are caught by purse seine vessels. Yellowfin tuna schools are usually associated with dolphins (porpoises) of several species, and fishermen use this relationship between the mammals and the fish to help catch the tuna. During the operations, dolphins are often killed or seriously injured. Such large number of dolphins were killed (hundreds of thousands a year) that the population of some species showed signs of severe depletion.

The MMPA regulations, although allowing for some take, prohibited taking below the OSP level. The rules caused legal and economic difficulties for the fishing industry.

The incidental take of dolphins is presently substantially less than it was a decade ago through the application of new techniques that enable dolphins to escape tuna nets once surrounded and possibly because dolphin populations are smaller in recent years. Although the 1981 amendments to the MMPA are more favorable for the tuna industry, concern remains among fishermen that economic and legal hardships will continue as a result of trying to abide by the concept of maintaining optimum sustainable populations of the affected dolphin species.

2. Abalone and sea otter

The decline of abalone populations in waters off California in recent years has been coincident with the increase in sea otters and greatly increased commercial take. Sea otters, renowned for their appetite for abalone, were widespread and abundant along the U.S. West Coast until an active fur-taking industry all but eliminated the species during the past century. They were once believed to be extinct in the California waters and still are regarded as threatened there. Some abalone fishermen state that control of the growing otter population (1,200-1,400) will increase the abalone available for commercial taking. However, there also are those who point to studies showing that otters are important natural members of the system that includes kelp and urchins (that eat kelp). Otters eat urchins as well as abalone, and thus increase the likelihood that the ecosystem upon which kelp, abalone, and otters all depend will be maintained. There is evidence that protection of otters has enhanced the restoration of the complete ecosystem, and that increased commercial taking has been the principal cause of the abalone's decline. Nonetheless, abalone fishermen are understandably disturbed when they see otters eating abalone. Some would like to have a legal basis for "controlling" the otters and thus support a reevaluation of the regulations of the MMPA.

3. Harbor seals

In parts of the northeastern and northwestern United States netted fish sometimes are eaten by harbor seals. If these harbor seals become entangled, they can cause damage to gear and can drown. Some see the seals as direct competitors for fish; others regard them primarily as an expensive nuisance. Under the MMPA, it is illegal to take them without a permit (as incidental take).

We recognize the conflict and the dilemma. In NACOA's review it has been clear that we need to know more about the interactions between certain fisheries and mammals, and between these and the environment they share in order to be able to devise rational management policy. NACOA believes that lack of biological and ecological information and inadequate communication of existing research findings have produced uncertainties regarding resource management.

We, therefore, have recommended intensified research and communications efforts to resolve the problems confronting fisheries relative to marine mammals, with particular reference to the concepts of OSP and MSY.

FISHERY MANAGEMENT ADMINISTRATION

National Goal 2

To refine the administrative and legal mechanisms and roles involved in national management of the U.S. fisheries.

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) is the principal document describing the administrative and legal machinery for management of U.S. fishery resources. This complex and hitherto untried system has worked well in accomplishing the objectives of reversing the ominous trends of depletion of some important fisheries and of controlling foreign fishing. Not surprisingly, however, the Act is not perfect in specifying authorities and responsibilities of the groups implementing its provisions, and certain modifications appear to be appropriate. Our recommendations in this chapter deal with objectives to:

- o Clarify roles and authorities.
- o Improve management of stocks throughout their range.
- o Reduce the number and complexity of regulations.

Objective 2:1 -- *To clarify the roles and authorities of the various groups involved in the preparation of Fishery Management Plans and in other management activities.*

Congress intended the Councils to exert the principal authority for management of fisheries under the MFCMA. This is evident, for example, by the language of the 1981 "Oversight Report on the Magnuson Fishery Conservation and Management Act of 1976" of the House Committee on Merchant Marine and Fisheries. The report states that "The Councils are independent entities more similar in nature to an independent agency," and "The Councils, not the Secretary, are to manage fisheries within their respective areas", and again ". . . the Secretary is not to substitute his judgement for that of the Councils regarding how to manage a fishery."

At the same time, Congress provided for overview by the Secretary of Commerce to ensure that regional actions are in the national interest and meet national standards as required by the law. Thus, the Act provides for a division of authority. How this divided authority is exercised has at times been a cause of friction between the Councils and NMFS.

Recommendation 2:1:1 -- *Congress should confirm by amendment of the Magnuson Fishery Conservation and Management Act that the Regional Fishery Management Councils are the principal authorities in formulating management strategies.*

Rationale:

The language of the MFCMA states in Section 302(h)(1) that the Councils "shall prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority." In Section 304(b) the Act states that "The Secretary (of Commerce) shall review any fishery management plan . . . to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law." This language has been interpreted in various ways in respect to the relative amount of authority the Councils and the Secretary (and thus NMFS) have in making decisions about management. But statements quoted above from the oversight report seem to make it clear that Congress intended the Councils to be the principal managers of the marine fisheries of the United States.

Figure 3.-- Regional Fishery Management Councils -- Established by Congress as part of our National Fishery Management Program.

(Source: National Oceanic and Atmospheric Administration/National Marine Fisheries Service.)

There are some Councils and Council members who believe the present language of the Act leaves too much room for interpretation by NMFS, resulting in some cases in dilution of Council authority. They have asked that the Council preeminence in management be made clearer either by administrative statements or by amendments to the MFCMA.

NACOA believes that uncertainty about the dominance of the Councils should be removed by amendment to the MFCMA to incorporate the Congressional intent expressed by the 1981 oversight report.

Recommendation 2:1:2 -- *The National Marine Fisheries Service should assign to its Regional Directors more authority for review of Fishery Management Plans and for other management decisions.*

Rationale:

The design of the fishery management regime set out in the MFCMA depends heavily on the concept that the principal authority should be given to regional officials, and that most management decisions should be made by them. This is based on the belief that local problems and solutions are best handled by local people. For this reason, many aspects of the FMP review and implementing process might be done more wisely and faster by the NMFS Regional Directors than by NMFS headquarters in Washington, D.C. The action proposed here would bring the decisionmaking closer to the affected fisheries.

Arguments we have heard against the recommendation include the possibility that this delegation could put the Regional Directors in the position (as voting Council members) of helping to prepare and vote on an FMP, then (as reviewers and decisionmakers) of being judges of the plan. Some people fear that the Regional Directors might sacrifice national interest to benefit regional interests; that local interests could apply political pressure on the Regional Director, resulting in increased rejection of documents by NOAA, the Department of Commerce, and the Office of Management and Budget, thereby delaying the approval process. But this need not happen. We do not propose to shift all authority and responsibility for the review and approval of FMPs from the Washington headquarters to the Regional NMFS offices.

NACOA would support a proposal that the Regional Directors lose their voting rights on the Councils if this is necessary for the Regional Directors to exercise greater review authority. The need seen by Congress for evaluating management proposals for their effects on national interests still remains and is addressed in the next recommendation.

The principle of relying heavily on local knowledge and opinion has been followed reasonably well in the implementation of the MFCMA, although in the opinion of some Council members and other interested people, too many of the region-specific decisions have been made in Washington, D.C. In fact, NMFS has acknowledged this

criticism and has initiated action to transfer more authority to the its Regional Directors. We make this recommendation to express support for this policy and to accelerate its implementation.

Recommendation 2:1:3 -- *The Secretary of Commerce and the National Marine Fisheries Service headquarters should retain their roles of ensuring that regional decisions conform to statutory national standards and other laws and treaties.*

Rationale:

While it seems important to emphasize the dominant role of the Regional Councils in setting policies and methods of fishery management by determining the character and content of the FMPs, NACOA also believes that, together with the actions proposed in the two preceding recommendations, the role of the Secretary of Commerce (through NMFS) should be reiterated to ensure that the checks and balances established in the MFCMA are properly maintained. The Federal function is to ensure compliance of the seven National Standards of the Act and adherence to treaty obligations. This includes the vital safeguard that individual Councils do not include in the plans restrictions that discriminate against out-of-state or other groups. In the legitimate zeal to focus management considerations on regional interests it is easy, inadvertantly or otherwise, to bias management plans in such a way that national interests are harmed. The Secretary of Commerce must retain legal authority to review plans with this in mind.

Objective 2:2 -- *To improve the ability of the Nation to manage fish stocks throughout their range by improving the machinery for cooperation among the States, the Regional Fishery Management Councils, and Indian tribes.*

Rationale:

No adequate authority exists to require comprehensive management for a number of important interstate stocks (e.g., striped bass) and stocks that occur both inside and outside the 3-mile limit but which are pursued predominately in State waters (e.g., American lobster). Cooperative management of these resources is particularly important, because about two-thirds of the domestic commercial harvest and a majority of the recreational catch is taken in State waters. Operating costs in the recreational fisheries (e.g., fuel costs) are causing sport fishermen to make shorter trips and are increasing pressures on many inshore stocks, such as weakfish and some flounders. Success of management under the MFCMA is therefore heavily dependent on actions of States and Indian tribes in cooperation with Council FMPs. The MFCMA provides for Federal pre-

emptive authority over conflicting State regulations, but this has only been invoked once (on salmon regulations in Oregon in 1982.) Constraint of this Federal authority can impede full implementation of some FMPs when a State fails to comply with proposed management measures.

Recommendation 2:2:1 -- *Congress should direct the Regional Fishery Management Councils to lead an intensive effort to devise more effective arrangements for developing State and interstate fishery management, including Indian tribe activities where appropriate, for important inshore fisheries. Congress should provide funds to the Regional Fishery Management Councils for this specific purpose.*

Rationale:

There is a continuing problem of multiple jurisdiction over marine fisheries which at various times may take place in the State-controlled 3-mile territorial sea, the federally controlled 3- to 200-mile FCZ, and the international areas beyond.

The MFCMA gives the Councils authority to develop management plans for fisheries in the FCZ. Control over fisheries inside 3 miles still rests with the States, although the Act provides authority for the Secretary of Commerce to regulate a fishery within the boundaries of a State that fails to act in a way which supports management actions of a Council. Furthermore, "highly migratory species," principally tunas, are specifically excluded from Council management control on the basis that their behavior makes international management necessary, and the United States participates in such management.

A substantial number of fishing operations take place in more than one of these three zones; unrestricted fishing or incompatible management in one zone could negate management benefits in another zone. In many cases, States have established regulations that reinforce the Council FMPs. In other cases, failure by States to institute management supportive of Council actions, or the lack of coordination among several States in the regions, has reduced management effectiveness.

Closely related to this management issue is the question of who pays for these services. Administration policy is to transfer responsibility for financial support for State-related programs to the States, including a number of fishery research and development programs. At the same time, the States are asked to assume greater responsibility for some fishery activities that can reasonably be regarded as national in their impact and scope. NACOA believes the Federal Government should pay the States for research and other activities that support national interests and objectives in fisheries.

Effective interstate and State/Federal fishery management arrangements will require some delegation of State authority. This delegation of authority will be controversial, and it will require State legislative action.

The three interstate Marine Fisheries Commissions, as alternatives to the Regional Fishery Management Councils, could serve as the responsible bodies for establishing the regional fishery management mechanisms, because the principal State fishery administrators have statutory responsibilities in the Commissions. But if the interstate Marine Fisheries Commissions are asked to perform these tasks, critical examination may be required of their structure and mode of operation. Despite decades of existence, the Commissions have had only limited success in achieving regional management. This is due, in large part, to their inability to persuade States to delegate any fishery management authority. The lack of effective interaction between the Commissions and the State legislatures has been a major factor in the limited success of the Commissions. An intensive effort to improve communication and understanding between resource managers (State and Federal) and State legislatures will be necessary to overcome political opposition to delegation of State authority. The Regional Councils should assume responsibility for documenting the specific needs of regional management, urging the States to take necessary action, and coordinating these efforts. If the Councils or the Marine Fisheries Commissions are not successful in developing more effective interstate management, Congress may be required to develop legislation to address these jurisdictional problems.

Objective 2:3 -- *To reduce the number and complexity of regulations impacting the fishery industries, and to simplify and shorten the process of developing and reviewing Fishery Management Plans.*

Rationale:

Regulations are required to protect the rights, possessions, health, and safety of individuals or groups, and to protect the environment. As they relate to the fishing industries, regulations include those governing fishing operations, business practices, labelling, sanitary inspection, effluent controls, and others.

While cases of burdensome regulations exist, NACOA was unable to identify examples of fishing regulations that could be challenged without question. On the other hand, there seems to be a case for examining some of the regulations that have been devised for controlling the food processing industry, and those put into place to protect the environment.

Some of the Environmental Protection Agency's (EPA) regulations should be examined to determine whether they are appropriate and necessary as they relate to the seafood processing industry. EPA regulations implementing the Federal Water Pollution Control Act of 1972 consist of two principal groups: effluent guidelines that are imposed nationwide, and water quality standards that are area-specific. Seafood processors criticize the effluent discharge regulations on the grounds that the rules assume all effluents are harmful; they contend

certain effluents may be without harmful effects. The extent to which this is true needs to be investigated and regulations adjusted accordingly.

As another example, some industry representatives maintain that certain labelling regulations in effect or proposed go beyond usefulness in protecting consumers and are costly to the industry; an example is the requirement for listing contents in detail.

Many of the laws involved were written for purposes not directly related to fisheries, dealing with environmental protection or business operations (minimum wages, worker safety, taxes, and others). In many cases, it is these peripheral laws that cause the greatest delays in putting fishery management plans into action.

Recommendation 2:3:1 -- *Congress should amend the Magnuson Fishery Conservation and Management Act to remove the requirement that the Regional Fishery Management Councils prepare Fishery Management Plans for every fishery in their regions.*

Rationale:

With the completion of the most obviously urgent management plans, some Councils may prepare plans for some fisheries for which they are not needed. The MFCMA requires them to do so, saying in Section 301(h)(1) that the Council shall "prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority...." If this mandate were to be unchanged, and be taken literally, time and effort could be wasted in preparing plans for fisheries that do not need them. Congress should change this provision by amendment, stating that Councils may decide which fisheries require management plans, based on their assessment of regional needs. NMFS, working with the Councils, should develop criteria for inclusion in the amendment as a guide the Councils. NACOA suggests that these criteria include the following:

1. Fishery Management Plans should not be prepared for fisheries that have no landings or relatively small landings of low value. The judgement in this should rest with the Regional Councils.

2. All fisheries which are large or valuable enough that they might require Fishery Management Plans in the reasonable future should be monitored to permit judgement by the Regional Fishery Management Councils concerning the need for a plan and regulations.

Recommendation 2:3:2 -- *Congress should amend the Magnuson Fishery Conservation and Management Act to require that Fishery Management Plans become effective on an interim basis should the Secretary of Commerce fail to complete the review and approval process within the statutory 60-day period.*

Recommendation 2:3:3 -- *The Department of Commerce should review its criteria for determining which Fishery Management Plans and amendments to Fishery Management Plans are major Federal actions under the provisions of the National Environmental Policy Act.*

Recommendation 2:3:4 -- *The Department of Commerce should change its policy in respect to which Fishery Management Plans require regulatory impact analyses under Executive Order 12291, and should take more advantage of the exceptions this Executive Order allows.*

Rationale:

These three recommendations address the same issue: the desirability of reducing the length of time taken to implement FMPs. The Councils need from one to one and a half years to prepare the plans. After submission to the Secretary of Commerce, another 230 to 270 (occasionally 300) days are needed for review, approval, and implementation. This delay, in addition to being frustrating to all those in the industry, in the Councils, and in the Federal Government involved in FMP preparation, can be damaging to efforts to manage the fisheries, and can, in some cases, destroy or seriously weaken management efforts. If months or years pass after management strategies and regulations have been devised for a fishery exhibiting certain conditions, these conditions may well have changed so that the strategies are no longer appropriate or useful. In some cases, the resulting inaction or misdirected action may cause significant harm to a fishery stock.

The FMPs require difficult decisions, because they are regulating complex and valuable natural resources that occupy an often fragile environment; sometimes the fisheries involved impact endangered species and marine mammals. As a consequence, Congress has erected a complex series of legal safeguards and several requirements, including substantial opportunities for public comment. The FMP review process is affected by such laws as the National Environmental Policy Act, Administrative Procedures Act, Executive Order 12291, Federal Advisory Committee Act, Freedom of Information Act, Paperwork Reduction Act, Regulatory Flexibility Act, Marine Mammal Protection Act, Endangered Species Act, American Fisheries Promotion Act, and others, as well as the MFCMA.

It appears to NACOA that the legal requirements imposed on the FMP review and approval process make it difficult to reduce greatly the time required, because these requirements involve protection of the environment and other interests of the public, including the opportunity for public comment. Nonetheless, we believe the process could be shortened.

Section 304 of the MFCMA requires the Secretary of Commerce to complete a review of Fishery Management Plans within 60 days. As pointed out earlier, this time limit is often greatly exceeded, but the Act provides no remedy for the Councils when this happens. NACOA recommends the MFCMA be amended to require the Secretary of Commerce (represented by NMFS) to comply with the present 60-day limit; lacking that timely review, the FMP will become effective on an interim basis, pending formal approval.

The Councils have, in some cases, contributed to the prolongation of the review and approval process by failing to include in their plans all the analyses and information required by the various laws. The lack of some analyses frustrates the decisionmaking process, because approval of regulations requires documentation by the regulating agency of the impact of its proposed activity on those to be regulated. NMFS states that some of the delay experienced in its office results from having to go back to the Councils for such data. This kind of delay is occuring less often as the Councils gain experience in what is required.

NMFS and the Councils are considering the preparation of what are called "framework fishery management plans." These contain all the elements of an FMP, and in addition they prescribe by formula worked out by the Councils how the optimum yield and other calculations can be made for each year, or in the course of a year, should change take place in the state of the stocks or the economy. This would avoid repeated reviews of amended plans and could shorten the process once an FMP has been originally approved. Some Councils have expressed reservations about this scheme, because they perceive that it could shift the decisionmaking authority from the Councils to the Secretary, and allow changes in regulations without consultation with the Councils. But this need not be the case if the Councils provide the Secretary with appropriate guidelines.

Recomendation 2.3.3 relates to the requirements of the National Environmental Policy Act (NEPA). NEPA requires a detailed statement on the environmental impact of all major Federal actions that significantly affect the quality of the human environment. It requires a 30-day period for public comment after the plan is released, and a 30-day "cooling off" period after the regulations are announced; these can run simultaneously. NACOA believes substantial time could be saved in review of some plans if the conservative interpretation of the law taken by the Department of Commerce were changed. By adopting the position that every FMP, including amendments, is a major Federal action under the definition of NEPA, the Department of Commerce has forced the Councils and NMFS to perform environmental analyses that may have been unnecessary. Some of the management plans and amendments may require such designations but not all of them.

Executive Order 12291 requires that before any major Federal regulations are implemented an agency must (1) consider the need for and the probable consequences of the regulation, (2) demonstrate that the expected benefits outweigh expected costs, and (3) elect objectives of the regulation that maximize benefits

and minimize costs. Sometimes these procedures take considerable time. The Executive Order requires that agencies analyze regulatory proposals to determine if they are "major" actions; if so, the proposals must undergo review by the Office of Management and Budget (OMB) to determine whether their effect on business would be harmful. OMB has 60 days to perform this review, and another 30 days are provided to receive comments before final regulations can be announced.

The Executive Order provides that the Department of Commerce can declare, after examination of the proposal (the FMP in this case) that a regulatory analysis is not required. The Department has adopted a policy that all management plans require such analysis. NACOA recommends that this stance be modified so some plans could be approved without requiring this complicated analysis.

ECONOMIC AND COMPETITIVE POSITION OF THE U.S. FISHING INDUSTRY

National Goal 3

To improve the economic climate and competitive position of the U.S. fishing industry.

NACOA has considered in this section four areas of concern:

- Domestic use of fish stocks.
- International fishery product trade.
- Fish marketing system.
- Roles of government and industry in market promotion.

Objective 3:1 -- *To increase domestic use of fish stocks harvested within the U.S. Fishery Conservation Zone.*

Since the implementation of the MFCMA, a greater portion of the fishery resources of the Fishery Conservation Zone is being caught by domestic vessels compared to foreign vessels, but the pace of this change is slower than was expected. Very large increases in U.S. catches can only come through the capture of under-used species, such as Pacific hake, anchovies, Alaska pollock, Gulf of Mexico sardine-like species, and squid. Profitable ways must be found to catch, process, and sell varieties of seafood that are now unfamiliar to U.S. consumers or to markets abroad.

Because there is presently little U.S. market for some of the under-used species, this market will grow only slowly. Full utilization of the resources of the FCZ depends largely, at least for now, on our ability to increase foreign markets for these U.S. fish.

Recommendation 3:1:1 -- *The National Marine Fisheries Service and the International Trade Administration should develop a program to provide information to Congress and the Regional Fishery Management Councils on the extent to which fish imports adversely impact the U.S. fishing industries, and to examine ways of mitigating those impacts.*

Scenes from the Boston Fish Pier -- In 1940, handling of catch here was a model for the times.

Credit: National Oceanic and Atmospheric Administration.

Rationale:

The U.S. fishing industry (both the catching and the processing segments) operates under high costs for labor, vessels, gear, and fuel, which puts the industry at a disadvantage with some foreign competitors. U.S. fishermen and processors voiced concerns to NACOA that some of the foreign exporters benefit unfairly in competition with domestic fish from what amounts to dumping of low priced products in the U.S. market (i.e., selling of fish at prices lower than in the exporting country or in another market). Perhaps the greater significance is the disparity between costs of producing fishery products by Americans compared to costs of foreign competitors who receive direct and indirect foreign government subsidies. Many foreign nations have committed substantial economic, political, and administrative resources to their fishing industries, often treating them as privileged sectors of their societies.

U.S. law permits relief from discriminatory tariff and duty burdens. For example, higher duties can be imposed if business can be demonstrated that it has been injured by foreign competitors subsidized by their governments. But even with such a demonstration, the law provides that higher duties do not need to be imposed by the U.S. Government. For example, there was a "finding of injury" in the case of the groundfish fishery by the U.S. International Trade Commission during the Multilateral Trade Negotiations (the Tokyo Round in 1979). Countervailing duties were not imposed, nevertheless, for fear of upsetting the delicate trade negotiations that were under way.

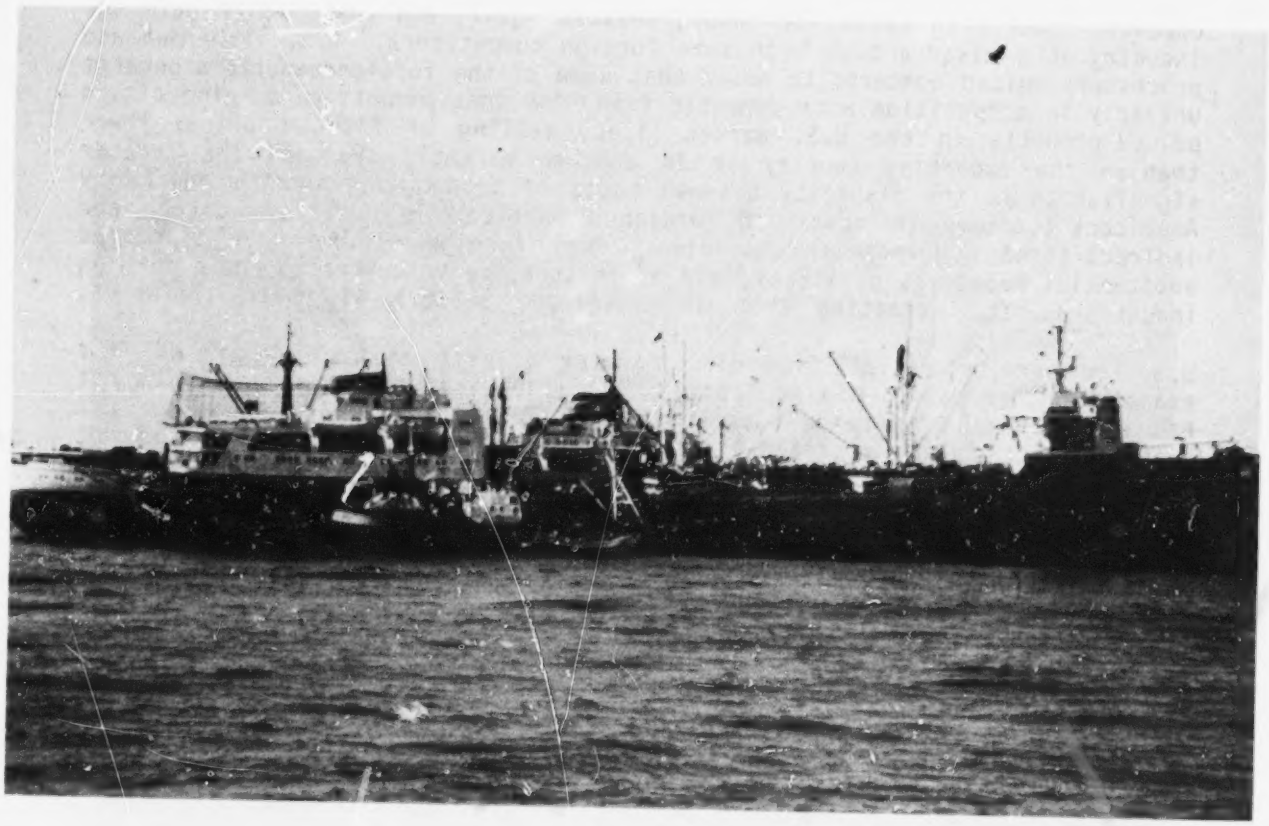
NACOA recognizes that there is a problem in ensuring a true free market in seafood products. We note that NMFS helps document evidence of unfair practices in relation to dumping and to issues related to the General Agreement on Tariffs and Trade. Any indication of such practice is referred to the International Trade Administration for redress. But there is a lack of information available on foreign fisheries subsidies. Further, there is no information network such as exists for some other U.S. commodities. Therefore, some sort of procedure as that proposed here is needed to ensure that the fisheries are given a fair hearing. The nature and sources of the information required (much of it from foreign governments) makes it appropriate that the Federal Government should be responsible for its collection and analysis.

Recommendation 3:1:2 -- *The National Marine Fisheries Service should continue its policy of permitting certain kinds of joint ventures between U.S. fishermen and foreign processing ships pending experience with this system that will allow a better evaluation than is possible now.*

Rationale:

Any assessment of ways to make the fullest possible use of the fishery resources of the FCZ must consider the recent development of what are called "joint ventures." One kind of these involves direct sales of fish caught by domestic fishing vessels to foreign processing ships. Delivery is taken in the FCZ

outside U.S. territorial waters. Probably a more appropriate term for this development would be "over-the-side sales by U.S. vessels at sea."



American and foreign vessels engaged in joint venture operations.

Credit: National Oceanic and Atmospheric Administration/
National Marine Fisheries Service.

This activity has both proponents and opponents. Those who favor this kind of joint venture say that:

- It has stimulated increased catches of underutilized fish species by domestic vessels.
- Catches by foreign vessels are being correspondingly reduced.
- Fishing opportunities have been provided for American boat owners whose vessels would have otherwise been idled most of the year and who would have suffered severe financial loss.

- New markets for U.S.-caugnt fish have been created, which, for the first time, are providing U.S. fishermen with opportunities to make foreign sales comparable to those enjoyed by U.S. processors.

- Some species new to foreign markets have been introduced into those markets. To the extent that these gain acceptance, opportunities for the sale of the underutilized fishery products by both U.S. processors and fishermen will be enhanced.

- Deliveries are made at sea where processing can take place soon after capture; quality is therefore improved.

- Costs are reduced, because this system has eliminated the need for longer vessel runs to deliver catches to shoreside processors.

- American fishermen have gained improved fishing and handling techniques from experienced foreign fishermen. This opportunity for U.S. fishermen to be exposed to new techniques and skills could be of great benefit in the ultimate development of U.S. fishery capabilities in unfamiliar species. It has already facilitated acquisition of better trawling gear by established fishermen, resulted in new trawl vessel construction, and expanded business opportunities for support facilities such as yards, gear, and net suppliers. Additionally, U.S. fishermen are learning more about new species and their behavior.

Those who oppose these joint ventures say that:

- U.S. processors have been precluded from the opportunity to process and sell U.S.-caught fish.

- Expansion of U.S. processing facilities has been held back in areas where joint ventures are operating.

- U.S. shore labor loses job opportunities to foreign ship labor where joint ventures exist.

- Foreign at-sea processing could be terminated suddenly by foreign processors, and this could leave domestic vessels without markets.

- Joint ventures represent a backward step from the advances made by the U.S. fishing industry when the MFCMA was passed in 1976, when the interests of U.S. fishermen and processors were given the same consideration. Joint ventures have tended to polarize and divide the fishing and processing segments of the industry.

- Only a relatively few fishermen have so far been able to take advantage of joint ventures.

- U.S. processors are at a competitive disadvantage with foreign processors because of many domestic shoreside constraints not in effect on foreign vessels.

It is too early for NACOA or anyone else to determine the long-term effects of joint ventures on the U.S. fishing industry. We believe the U.S. Government should permit this arrangement to continue until more information is available on its economic impact on the affected sectors of the industry.

While this experience is being gained, the Federal Government should conduct or support studies to identify the factors that are hampering development of U.S. shore plants in areas where joint ventures are operating, including the regulations and constraints imposed by union rules and the effects of taxes. The possibilities of removing or mitigating these constraints and of providing some tax relief to encourage expansion of processing capacity for underutilized species should be part of such studies.

Objective 3:2 -- *To improve the competitive position of the U.S. industry in international fishery product trade.*

In 1981, the United States imported 2.3 billion pounds of edible fishery products (principally tuna, fillets and blocks of groundfish, shrimp, lobsters) valued at $3.0 billion, and exported 669 million pounds valued at $1.157 billion, resulting in an annual trade deficit of nearly $2 billion.

The amount of fish imported can be reduced, but it is not realistic to expect a reduction to zero as has been proposed by some as a national policy. Much of the imported products consists of high priced items, such as shrimp and lobster, for which the domestic resource supply is not sufficient to meet the demand. The market for these fish species has been growing, not diminishing.

The trade deficit also can be reduced by increasing exports of U.S. fishery products, and a number of steps can be taken to accomplish this.

Recommendation 3:2:1 -- *The Office of the U.S. Trade Representative and the Department of State should place a high priority on fishery products in trade negotiations with foreign governments. They should continue to press for inclusion of fishery product sales in agreements made with foreign countries, including linkage of foreign allocations of fish in the U.S. Fishery Conservation Zone with increased access to export markets.*

Figure 4:- Balance of Trade Deficit Reaches over $2 Billion.
(Source: National Oceanic and Atmospheric Administration/National Marine Fisheries Service.)

Rationale:

Fishermen and processors expressed considerable concern to NACOA about an apparent lack of attention to fisheries issues and trade potentials by the Department of State in its role under the MFCMA in dealing with total allowable levels of foreign fishing (TALFF) allocations. Opportunities for striking bargains of greater advantage to fisheries are believed by some to have been missed. NACOA notes with satisfaction, nevertheless, that seafood exports have quadrupled over the past six years, climbing to $1.157 billion in 1981, and that the proportion of U.S. production in domestic consumption has increased from 47 percent in FY 1976 to 55 percent in FY 1981. However, imports of fishery products are valued at $3.40 for every $1.00 of exports, and the trade deficit continues to grow. As noted earlier, this deficit was nearly $2 billion in 1981.

NACOA recognizes that the efforts of NMFS and the International Trade Administration to promote seafood exports have had positive effects and believes that these efforts should continue. The appointment of fishery attaches to selected U.S. missions overseas is seen as a positive step, as is the proposal being discussed in NMFS for the development of seafood export and foreign fishing liaison centers in the United States. NACOA notes, however, that the prime responsibility for trade negotiations lies with the Department of State and

the U.S. Trade Representative. The Department of State should undertake a more concerted effort regarding fishery products and fishing gear in bilateral trade negotiations and negotiations for the reduction of tariff and non-tariff barriers to the export of fish to other countries.

Objective 3:3 -- *To modernize and make more efficient and effective the domestic trading and distribution of fish and fishery products.*

Recommendation 3:3:1 -- *The National Marine Fisheries Service, with the help of regional Fishery Development Foundations, the universities, and other appropriate organizations should analyze the working of the U.S. seafood distribution and marketing systems and should assist the industry to improve these systems where needed.*

Rationale:

At least some of the current economic difficulties in the fisheries industry are not due to "natural" economic forces but to failure of segments of the industry to adopt the modern marketing procedures that give competing nations part of their edge. In some areas, the domestic fish trading and distribution systems are antiquated. Methods of buying and selling do not encourage high quality through price premiums, and there is little incentive for fishermen or distributors to produce or maintain hign quality products. These problems reduce the efficiency of the industry and constitute what is probably the most important impediment to the development of new domestic and foreign markets. In order to compete more successfully with other domestic foods and with imported fish products, some parts of the industry need to modernize and improve their capital facilities, and to adopt "state-of-the-art" marketing technologies.

Current practice in the majority of the fisheries in the United States is for vessels to land their catches for sale either to a dealer or to a group of dealers at dockside. The fish are then either processed locally or are transported to regional seafood markets where they are sold again to middlemen who ship them to other wholesalers in the United States for sale to retailers. The process may involve handling a fresh fish three or four times over a period of as many days. Inefficiences are built into the system; for example, some Texas shrimp travel to New York City to the Fulton Street market in Boston, Massachusetts, before returning to Altanta, Georgia, for final sale. NACOA was concerned that these ineffficiences affected the quality of products in addition to increasing the price to consumers. The costs of collecting large quantities of fish landed by a large number of boats, often in widely separated harbors, is often excessive. The problem is especially acute with non-traditional species where the greatest opportunities for domestic and foreign market expansion are possible.

The costs of ensuring reliable supplies of fish are often high, and this is crucial to the efficiency of food distribution systems. Without reliability, contracting in new markets is especially difficult, planning is hard, and efficiency is reduced.

NACOA believes that NMFS, with the help of regional Fishery Development Foundations, cooperative organizations whose membership is drawn from the seafood industry, producers and processors, and whose goals are to promote seafood consumption, should examine the working of the seafood distribution and marketing system in each geographic area and explore alternative trading and distribution systems. The experience and history of foreign fisheries markets should be studied. Use should be made of the experience in trading and distribution systems of the U.S. agricultural community, specifically in the Agricultural Marketing Service of the U.S. Department of Agriculture.

This examination of market systems should include an analysis of the impact of the current systems on quality and price of fish at the retail level. NACOA noted the experience of the agriculture industry and foreign fishery markets with electronic trading systems and futures markets in food products; the seafood industry may be able to draw useful lessons from these.

Objective 3:4 -- *To define and implement appropriate roles for government and industry in the promotion of markets and the general development of the fishing industries.*

Over many years, the fishing industry has been assisted by an increasing number of Federal programs, sometimes in cooperation with the industry, sometimes run exclusively by a Federal agency. These have included product promotion and loans to individuals or single firms, as well as programs affecting large segments of the fishing and processing sectors. There are strong views in government and by some in industry that the industry should provide the support for its own expansion and development.

Recommendation 3:4:1 -- *Federal Government activity in product promotion should be phased out.*

Rationale:

In the past years, NMFS and its predecessor agencies have been active in promoting the sale of fish in the United States. Opinions about the usefulness and the appropriateness of this activity have differed, but there has been a great deal of opposition to it, inside government and out. A widely expressed view is that Federal efforts to help the industry through product promotion programs have frequently had undesirable side effects or have been close to ineffectual. Partly in response to this, and because of lack of funds, NMFS has reduced its market promotion efforts in recent years.

At present, the Federal Government's activity in fishery product promotion is confined mostly to a relatively small program known as Catch America. In this program, NMFS provides assistance to the industry in market development and product promotion in 20 selected markets in the United States through the use of Saltonstall-Kennedy (S-K) Funds. In addition, the Marine Advisory Service of NOAA's Sea Grant Program provides general extension services tailored to individual coastal State needs.

Sharp disagreement with the proposal for a diminished NMFS role in market promotion was expressed to NACOA by some representatives of the industry. They argue that while the large companies can mount their own marketing programs the numerous smaller firms cannot do so individually and had difficulty in continuing their efforts in a cooperative fashion. Most spokesmen holding this opinion said that they believed the Federal Government should, at a minimum, promote seafood as a commodity.

The trend in the fisheries industry is to depend less on Federal support than on industry initiative. One kind of industry activity is represented by the regional Fishery Development Foundations mentioned earlier. At the moment, they are partly financed by NMFS through Saltonstall-Kennedy funds, which in turn are derived from import duties imposed on fishery products entering this country. It is expected that the Foundations will eventually be entirely industry-supported. They are creating a broad base of fishery development activities similar to that of the agricultural marketing boards. Because the Foundations are new forms of activity in the fishing industry, having been created in 1976, it is difficult to assess their effectiveness at this time. In assisting their formation and providing initial financial and technical support to the Foundations, NMFS has prepared the way for regional industrial initiatives in the development of domestic and foreign markets and has provided a vehicle for the transfer of information and technology.

NACOA believes that this kind of role in fishery development, which involves temporary help to the industry in organizing itself, is appropriate for NMFS, but that there should be a shift from the former pattern of direct product promotion, consumer education, and market development. These activities should be carried out by the industry, with the regional Fishery Development Foundations acting in the role of industry catalyst.

Recommendation 3:4:2 -- *The National Marine Fisheries Service should create a program of mandatory standards for fishery products.*

Rationale:

U.S.-produced seafoods vary in quality. This is of concern to the industry whose business is diminished by lack of consumer confidence in U.S.-produced seafoods and to the consumer who is entitled to food that is safe and of acceptable quality.

The volume of sales of fish in the United States and abroad is influenced by its quality and wholesomeness. There is evidence that consumer resistance results from poor quality control of seafoods. A joint study by the Food Marketing Institute and NMFS, "Consumer Attitudes Toward Seafood" (Food Marketing Institute, 1980), noted that "People believed that good, fresh seafood was not readily available and accessible to them except in outlets such as markets that specialize in fish." Further the report noted that "Frozen prepared seafood products were basically perceived as lacking in quality and described as unappealing." The report recommends that the quality of the frozen seafood product available to U.S. consumers be improved and that joint industry and Federal Government action be taken to promote good retailing and handling practices and consumer awareness of the characteristics of high quality fish.

Other reports that have addressed the issues of the safety and quality of seafood production are "A Marine Fisheries Program for the Nation" (U.S. Department of Commerce, 1976) and the "Eastland Fisheries Survey: a Report to Congress" (Atlantic States, Gulf States, and Pacific Marine Fisheries Commissions, 1977). The former recommended the development of "simple, practical, and enforceable quality standards for fishery products at the vessel, processing and retail levels." The latter report urged the adoption of standards both for domestic and imported edible fish products, and good codes of practice, specified quality controls, and mandatory inspection. The exporters of seafood to the United States are given responsibility for adhering to quality control standards. The domestic seafood industry does not have any similar economic incentive to the fishermen for better quality, or to distributors for adopting new technology, handling practices, or quality controls.

The issue of seafood quality and wholesomeness has received some attention by the Federal Government. A voluntary program of quality control is in operation under NMFS guidance and paid for by the industry. Congress has considered, but not passed, legislation for the mandatory control of the quality and safety of seafoods comparable to those existing for red meats and poultry. Few regulatory or advisory codes for the transport and marketing of fresh and frozen seafoods have been implemented.

Research on quality and safety of seafood products is being carried out by NMFS research laboratories and by universities, some under the aegis of the Sea Grant Program. We believe that there is an adequate basis for developing quality standards.

The quality of foreign fishery products, often higher than that of the United States, affects both the exporting and the importing sectors of our domestic industry; our fish are harder to sell overseas, and foreign fish are easier to sell in the United States when there is a quality difference.

Concern has been voiced by some processing industry interests that a Federal mandatory program for seafood quality and safety will add another layer of regulations under which the industry operates. In particular, the cost of improving at-sea fish handling and later shoreside processing is seen as an inhibiting factor for smaller firms. The current NMFS voluntary inspection scheme is seen by these interests as adequate.

NACOA believes, however, that the relatively small industry participation in the voluntary program (5 percent of the fish processing plants operating and 25 percent of the fish processed) and the marketing resistance caused by mediocre quality of fish require that mandatory standards be instituted.

Recommendation 3:4:3 -- *The National Marine Fisheries Service should review the programs of direct financial assistance to the seafood industry to determine if they can be used more effectively, and to eliminate those segments for which need for Federal Government intervention cannot be demonstrated, or for which adverse impacts on the economics of the industry can be identified.*

Rationale:

There is concern that the present program of direct financial assistance to the industry serves to increase the capacity of the harvesting and processing sectors beyond the ability of the fish stocks to support them. Fish stocks fluctuate as environmental conditions change, and years of high catch rates on a particular species often cause speculative building of vessels and processing plants. This can lead to redundant capacity and economic difficulties for the participants in the fishery when the natural cycle of the stock turns downward. For example, present overcapacity in the Gulf of Mexico shrimp fishery, contributed to by financial assistance programs, has created financial distress to the operators.

Currently, NMFS administers five programs of direct financial assistance to the fishing industry. These are the Fishing Vessel Obligation Guarantee Program (FVOG), the Capital Construction Fund (CCF), the Fisherman's Contingency Fund (FCF), the Fisherman's Guarantee Fund (FGF), and the Fishing Vessel and Gear Damage Compensation Fund (FVGDCF). Congress evolved each of these programs in response to particular needs of the seafood industry. Assistance falls into two broad groupings. The Fishing Vessel Obligation Guarantee Program and the Capital Construction Fund Program are designed to help the industry modernize and thus to take advantage of the fishery resources of the Fishery Conservation Zone. The Fishing Vessel Obligation Guarantee Program is designed to help fishermen obtain loans that finance or refinance a portion of the cost of major capital investments in building, reconstructing, or remodelling fishing vessels and gear. The Capital Construction Fund provides fishermen with the opportunity to create capital, for later investment in vessel construction or rebuilding, by deferring payment of Federal taxes on income from the operation of their vessels.

The second group of programs, the Fishermen's Contingency Fund, the Fishermen's Guarantee Fund, and the Fishing Vessel and Gear Damage Compensation Fund, provide compensation for loss or damage to vessels or gear, or loss of earnings, under specific conditions. The FCF is the implementation of Title IV of the Outer Continental Shelf Lands Act Amendments of 1978. It compensates fishermen

for loss of or damage to vessels or gear, or loss of earnings, due to oil or gas exploration or exploitation activities on the continental shelf. The Fishermen's Guarantee Fund and the Fishermen's Vessel and Gear Damage Compensation Fund are parts of the Fishermen's Protective Act. The FGF provides for compensation for loss of earnings, loss or confiscation of a vessel, its gear or catch, and payment of any fines should a fishing vessel of the United States be illegally seized by another nation. The FVGDCF covers compensation for loss of gear or vessel caused by the activities of other vessels.

NACOA recognizes the value of some of these programs to the fishing industry. In particular, NACOA sees the opportunity for some of these programs to be used to stimulate and help directly in the development of fisheries for underutilized fish stocks. We are concerned, however, with the possible harmful effects of providing Federal support, which at times serves to overcapitalize the fishing sector, rather than permitting free market forces to operate. For this reason, NACOA recommends that these programs be critically reviewed to determine whether their effects in expanding fishing capacity in already overcrowded fisheries and other economic consequences are overbalancing the positive aspects of the programs. NACOA also notes the activity of the Small Business Administration and Disaster Relief Administration in providing support to the seafood industry. We believe that these agencies also should review their programs in coordination with the NMFS review and should eliminate any for which no clear need for Federal assistance can be demonstrated, or which have undesirable effects on the economics of the industry or the conservation of the resources. NMFS should lead in the development of appropriate legislative changes in cooperation with the Small Business Administration and the Disaster Relief Administration.

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APPENDIX B

APPEARANCES BEFORE THE FISHERIES PANEL

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APPENDIX C

LIST OF ACRONYMS

AFPA	--	American Fisheries Promotion Act
CCF	--	Capital Construction Fund
EPA	--	Environmental Protection Agency
FCF	--	Fishermen's Contingency Fund
FCMA	--	Fishery Conservation and Management Act
FCZ	--	Fishery Conservation Zone
FGF	--	Fishermen's Guarantee Fund
FMP	--	Fishery Management Plan
FVGDCF	--	Fishing Vessel and Gear Damage Compensation Fund
FVOG	--	Fishing Vessel Obligation Guarantee Program
GIFA	--	Governing International Fishery Agreement
ITA	--	International Trade Administration
MFCMA	--	Magnuson Fishery Conservation and Management Act
MMPA	--	Marine Mammal Protection Act
MSY	--	Maximum Sustainable Yield
NACOA	--	National Advisory Committee on Oceans and Atmosphere
NEPA	--	National Environmental Policy Act
NMFS	--	National Marine Fisheries Service
NOAA	--	National Oceanic and Atmospheric Administration
OSP	--	Optimum Sustainable Population
OY	--	Optimum Yield
USDA	--	U.S. Department of Agriculture

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